

National Credit Union Administration

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§ 797.3 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) Administrative offset, as defined in 31 U.S.C. 3701(a)(1), means withholding money payable by the United States government to, or held by the government for, a person to satisfy a debt the person owes the government.

(b) Agency means a department, agency, or instrumentality in the Executive, Judicial, or Legislative branch of the government.

(c) Claim or debt means money or property owed by a person or entity to an agency of the federal government. A “claim” or “debt” includes amounts due the government, fees, services, overpayments, penalties, damages, interest, fines and forfeitures. For purposes of this part, a debt owed to NCUA constitutes a debt owed to the federal government.

(d) Claim certification means a creditor agency’s written request to a paying agency to effect an administrative or salary offset.

(e) Creditor agency means an agency to which a claim or debt is owed.

(f) Debtor means the person or entity owing money to the federal government.

(g) Disposable pay means that part of current basic pay or other authorized pay remaining after the deduction of any amount required by law to be withheld. NCUA shall allow the deductions described in 5 CFR 581.105(b) through (f).

(h) Employee means a current employee of NCUA or another agency.

(i) FCCS means the Federal Claims Collection Standards published in 31 CFR part 900.

(j) Hearing official means an individual who is authorized to conduct a hearing with respect to the existence or amount of a debt claimed and issue a final decision on the basis of such hearing. A hearing official may not be under the supervision or control of NCUA when NCUA is the creditor agency.

(k) NCUA means the National Credit Union Administration.

(l) Paying agency means an agency of the federal government owing money to a debtor against which an administrative or salary offset can be effected.

(m) Salary offset means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of a debtor.

(n) Waiver means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to NCUA or another agency as permitted or required by 5 U.S.C. 5584 or any other law.

§ 797.4 Delegation of authority.

Authority to conduct the following activities is delegated to the Executive Director to:

(a) Initiate and carry out the debt collection process on behalf of NCUA, in accordance with the FCCS;

(b) Accept or reject compromise offers, suspend, terminate or waive collection actions to the full extent of NCUA’s legal authority under 12 U.S.C. 1752(a) and 1789; 31 U.S.C. 3711, and any other applicable statute or regulation.

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts, where appropriate;

(d) Use offset procedures, including administrative and salary offset, to collect debts; and

(e) Take any other action necessary to promptly and effectively collect debts owed to the government in accordance with the policies contained herein and as otherwise provided by law.

Subpart B—Administrative Offset

§ 797.5 Authority and scope.

NCUA may collect a debt owed to the federal government from a person, organization, or other entity by administrative offset, pursuant to 31 U.S.C. 3716, where:

(a) The debt is certain in amount;

(b) Administrative offset is feasible, desirable, and not otherwise prohibited;

(c) The applicable statute of limitations has not expired; and

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(d) Administrative offset is in the best interest of the federal government.

§ 797.6 Administrative offset prior to completion of procedures.

Prior to the completion of the procedures described in § 797.7, NCUA may effect administrative offset if failure to offset would substantially prejudice its ability to collect the debt, and if the time before the payment is to be made does not reasonably permit completion of the procedures described in § 797.7. Such prior administrative offset shall be followed promptly by the completion of the procedures described in § 797.7.

§ 797.7 Procedures.

Prior to collecting any debt by administrative offset or referring such claim to another agency for collection through administrative offset, NCUA shall provide the debtor with a written Notice of Intent to Collect by Administrative Offset (the Notice) at least 30 calendar days before administrative offset is to commence.

The Notice shall provide the following information:

(a) The nature and amount of the debt, the intention of NCUA to collect the debt through administrative offset, and a statement of the rights of the debtor under this section, including the right to request a waiver under 5 U.S.C. 5584;

(b) An opportunity to inspect and copy the records of NCUA related to the debt or receive copies if personal inspection is impractical;

(c) The payment due date, which shall be 30 calendar days from the date after receipt of the initial demand for payment;

(d) An opportunity for the debtor to obtain a review of the determination of indebtedness. Any request for review by the debtor shall be in writing and shall be submitted to NCUA within 15 calendar days after receipt of the Notice. NCUA may waive the time limits for requesting review for good cause shown by the debtor. NCUA shall provide the debtor with a reasonable opportunity for an oral hearing when:

(1) An applicable statute authorizes or requires NCUA to consider waiver of

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the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) The debtor requests reconsideration of the debt and NCUA determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, as for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this subpart is not required to be a formal evidentiary hearing, although NCUA shall document all significant matters discussed at the hearing. In those cases where an oral hearing is not required by this subpart, NCUA shall make its determination on the request for waiver or reconsideration based upon a review of the written record.

(e) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of NCUA;

(f) That charges for interest, penalties, and administrative costs will be assessed against the debtor, in accordance with 31 U.S.C. 3717, if payment is not received by the payment due date, unless excused by the FCCS;

(g) That if the debtor has not entered into an agreement with NCUA to pay the debt, has not requested NCUA to review the debt, or has not paid the debt by the payment due date, NCUA intends to collect the debt by all legally available means;

(h) The name and address of the Executive Director whom the debtor shall send all correspondence relating to the debt; and

(i) Other information, as may be appropriate.

§ 797.8 Right to agency review.

(a) If the debtor disputes the claim, the debtor may request a review of NCUA's determination of the existence of the debt or of the amount of the debt. If only part of the claim is disputed, the undisputed portion should be paid by the payment due date.

(b) To obtain a review, the debtor shall submit a written request for review to the Executive Director within 15 calendar days after receipt of the Notice. The debtor's request for review